

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KEVIN CONNORS (TDCJ No. 1284939),

Plaintiff,

v.

EDGAR HULIPAS, et al.,

Defendants.

CASE NO.: 4:17-cv-1512

JURY DEMAND

**UNOPPOSED PLAINTIFF'S MOTION TO MODIFY SCHEDULING ORDER
AND FOR LEAVE FOR PLAINTIFF TO FILE AN AMENDED OPPOSITION TO
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff Kevin Connors, by and through his under-signed counsel, respectfully submits this *Unopposed Motion to Modify Scheduling Order and for Leave for Plaintiff to File an Amended Opposition to Defendants' Motions for Summary Judgment*, and in support thereof, would respectfully show the Court as follows:

All parties produced initial disclosures in Nov. 2018. Of note, Defendants Dr. Edgar Hulipas, Terry Speer, and the University of Texas Medical Branch (collectively, "UTMB") produced approximately **350** pages of Plaintiff's medical records.

Plaintiff deposed UTMB's medical expert on March 29, 2019. UTMB's expert testified that she examined "**500-600** pages" of Plaintiff's medical records in preparation for the deposition. *See* Doc. No. 75 ¶ 4.

On April 1, 2019, Plaintiff demanded the missing medical records from UTMB.

On April 8, 2019, UTMB produced part 1 of its first supplement to initial disclosures: approximately **1,400** pages of Plaintiff's medical records.

On April 25, 2019, UTMB produced part 2 of its first supplement to initial disclosures: approximately **1,000** pages of Plaintiff's medical records.

On April 26, 2019, UTMB produced its second supplement to initial disclosures, approximately **5,500** pages of Plaintiff's medical records.

Throughout this supplemental disclosure period, the parties discussed the need to modify the scheduling order because (1) Plaintiff's medical expert did not have access to the 500-600 pages used by Defendant's medical expert nor the latter 7,900 pages produced in April 2019, (2) Plaintiff was not able to review the 500-600 pages nor 7,900 pages to prepare for the March 2019 deposition of Defendant's expert, and (3) Plaintiff was not able to use the 500-600 pages nor 7,900 pages in his consolidated response to Defendants' two motions for summary judgment (Doc. No. 72). Plaintiff has been prejudiced in his ability to prosecute his case by UTMB's failure to produce his medical records until last month.

An additional 7,900 medical records are a substantial amount that Plaintiff's expert and attorney both must review, and this will take a presently uncertain number of days.

Based upon the foregoing, Plaintiff solemnly requests:

- Deadline for Expert Discovery

June 28, 2019

(The parties only intend for this extended expert discovery period for Plaintiff to depose Defendants' medical expert by written question within the scope of the 7,900 records.)

- Deadline for Motions

August 9, 2019

Plaintiff requests that the Court determine the schedule for later events, such as Docket Call, as it pleases the Court. Please note that counsel for Defendant Texas Dept. of Criminal Justice has a scheduling conflict in December 2019 due to trial.

Additionally, Defendants have agreed to allow Plaintiff to amend his response in opposition to Defendants' motions for summary judgment (Doc. No. 72) by **July 12, 2019**. Pursuant to FED.R.CIV.P. 6, Plaintiff moves the Court for leave to allow that filing as he has been prejudiced by not having the 7,900 pages of medical records disclosed when his response was previously drafted and filed.

Filed with this motion is a proposed Amended Scheduling Order reflecting the requested modifications. Plaintiff respectfully requests that this Court grant the instant motion and adopt the revised deadlines set out in the proposed Amended Scheduling Order.

Dated: May 3, 2019.

Respectfully submitted,

/s/ Jerold D. Friedman
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

I certify I have conferred with opposing counsel regarding this motion and on May 1, 2019, each indicated that they are Unopposed.

/s/ Jerold D. Friedman

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing instrument has been served upon counsel of record via e-file in accordance with the FED.R.CIV.P. on May 3, 2019.

/s/ Jerold D. Friedman